

Message

---

**From:** Messier, Dawn [Messier.Dawn@epa.gov]  
**Sent:** 8/8/2018 9:03:44 PM  
**To:** Wade, Alexis [Wade.Alexis@epa.gov]; Neugeboren, Steven [Neugeboren.Steven@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]  
**Subject:** Re: Florida 404 Assumption updates

Unfortunately for her, Alexis has been taking the lead on this issue. For what it's worth, I am also up to my eyeballs in work so would not be able to help in the near term anyhow....

---

**From:** Wade, Alexis  
**Sent:** Wednesday, August 8, 2018 5:01 PM  
**To:** Neugeboren, Steven; Kupchan, Simma; Messier, Dawn  
**Subject:** RE: Florida 404 Assumption updates

Tom's the only one here. I've talked to him a couple times today but he seems pretty busy. Tom is out. I think he's back next week.

Alexis Wade  
Attorney-Adviser  
Water Law Office  
EPA Office of General Counsel  
(202) 564-3273

---

**From:** Neugeboren, Steven  
**Sent:** Wednesday, August 08, 2018 4:58 PM  
**To:** Wade, Alexis <Wade.Alexis@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>  
**Subject:** RE: Florida 404 Assumption updates

Oy,

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

Could someone in CCILC help?

Steve Neugeboren  
Associate General Counsel for Water  
U.S. EPA  
1200 Pennsylvania Ave., NW  
Washington, DC 20460  
202 (564-5488)

---

**From:** Wade, Alexis  
**Sent:** Wednesday, August 8, 2018 4:43 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>  
**Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** RE: Florida 404 Assumption updates

I feel like absolutely every project or issue blew up in the last 12 hours. I'm not surprised this is back. If you have time to take the first stab at it, that would be great. Are you trying to get this to David tomorrow?

Alexis Wade  
Attorney-Adviser  
Water Law Office  
EPA Office of General Counsel  
(202) 564-3273

---

**From:** Kupchan, Simma  
**Sent:** Wednesday, August 08, 2018 4:30 PM  
**To:** Wade, Alexis <Wade.Alexis@epa.gov>; Messier, Dawn <Messier.Dawn@epa.gov>  
**Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>  
**Subject:** FW: Florida 404 Assumption updates

Hi Alexis and/or Dawn,

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

See below. I can take a first shot at this; would one of you be free to review and coordinate with me on it? I'm not sure how you want to divide up this issue between the two of you. Thank you!

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q

---

**From:** Fotouhi, David  
**Sent:** Wednesday, August 08, 2018 4:16 PM  
**To:** Kupchan, Simma <Kupchan.Simma@epa.gov>  
**Cc:** Neugeboren, Steven <Neugeboren.Steven@epa.gov>; Wehling, Carrie <Wehling.Carrie@epa.gov>  
**Subject:** RE: Florida 404 Assumption updates

Thanks, Simma. A Florida visit is news to me; I recall that Matt was planning to visit R4 in Atlanta on August 21. I will follow up with him.

**Ex. 5 AC/DP**

Best,

David

David Fotouhi

Deputy General Counsel  
Office of General Counsel  
U.S. Environmental Protection Agency  
Tel: +1 202.564.1976  
[fotouhi.david@epa.gov](mailto:fotouhi.david@epa.gov)

---

**From:** Kupchan, Simma  
**Sent:** Wednesday, August 8, 2018 2:21 PM  
**To:** Fotouhi, David <[Fotouhi.David@epa.gov](mailto:Fotouhi.David@epa.gov)>  
**Cc:** Neugeboren, Steven <[Neugeboren.Steven@epa.gov](mailto:Neugeboren.Steven@epa.gov)>; Wehling, Carrie <[Wehling.Carrie@epa.gov](mailto:Wehling.Carrie@epa.gov)>  
**Subject:** Florida 404 Assumption updates

Hi David,

We have heard that Dave Ross and Matt are planning to go to Florida the week of August 20 for meetings on Florida's assumption of the 404 program. This is the same week that R4 and FDEP staff are planning a face to face meeting. We wanted to check in with you to see if we could provide anything to assist Matt and Dave, or you, in advance.

Also, R4 has told us that Florida has given them the attached flowchart outlining an approach to addressing concerns about ESA liability for state-issued permits. Florida has informed R4 that industry representatives shared an identical chart with Dave Ross at a HQ meeting. I believe the RA may have called or may try to call Matt and Dave to discuss this approach.

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

**Ex. 5 AC/DP**

Simma Kupchan  
EPA Office of General Counsel  
Water Law Office  
202-564-3105  
WJC North #7426Q